

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BENJAMIN K. NG,

CASE NO. 2:24-cv-00717-JHC

Petitioner,

ORDER

V.

JASON BENNETT,

Respondent.

In three separate orders, the Ninth Circuit has remanded this matter to this Court “for the limited purpose of granting or denying a certificate of appealability.” Ninth Circuit Case No. 24-7258, Dkt. # 10 (regarding Order in this case at Dkt. # 53); Ninth Circuit Case No. 24-7257, Dkt. # 3 (regarding Order in this case at Dkt. # 49); Ninth Circuit Case No. 24-6445, Dkt. # 3 (regarding Order in this case at Dkt. # 42).¹

The Court may issue a certificate of appealability of its denial of Petitioner's Rule 60(b) motions if the Petitioner could show "that (1) jurists of reason would find it debatable whether the district court abused its discretion in denying the Rule 60(b) motion, and (2) jurists of reason

¹ In its Order at Dkt. # 53, the Court vacated the Order at Dkt. ## 42 and 49, so any appeal regarding those Orders would seem moot.

1 would find it debatable whether the underlying section 2255 motion or section 2254 petition
2 states a valid claim of the denial of a constitutional right.” *Martinez v. Shinn*, 33 F.4th 1254,
3 1261 (9th Cir. 2022). “To meet this standard, the petitioner ‘must demonstrate that the issues are
4 debatable among jurists of reason; that a court could resolve the issues in a different manner; or
5 that the questions are adequate to deserve encouragement to proceed further.’” *Id.* (quoting
6 *Lambright v. Stewart*, 220 F.3d 1022, 1025 (9th Cir. 2000) (emphasis in original)).

7 Petitioner does not meet this standard.

8 Nearly four decades after the Supreme Court of Washington affirmed Petitioner’s
9 conviction, he filed this action seeking federal habeas relief on that conviction and sentence.
10 Dkt. # 6 at 2. On August 14, 2024, the Court adopted the Report and Recommendation of
11 Magistrate Judge David W. Christel (Dkt. # 6) and dismissed this matter with prejudice as time-
12 barred. Dkt. # 14. The Court entered Judgment on this ruling. Dkt. # 15. Presumably, all of
13 Petitioner’s motions for relief from judgment relate to that judgment.

14 Petitioner filed a series of seven Rule 60(b)(4) motions. Dkt. ## 19, 29, 36, 40, 44, 47 &
15 50. As explained in the Court’s Order at Dkt. # 53, the motions are meritless, form, fill-in-the-
16 blank style requests. Indeed, the Court has ordered Petitioner to show cause why a vexatious
17 litigant bar order should not be issued. Dkt. # 53.

18 Petitioner has not shown any basis upon which the Court’s denial of the Rule 60(b)
19 motions may be “debatable.” Thus, the Court DECLINES to issue a certificate of appealability.

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Dated this 10th day of December, 2024.

John H. Chan
John H. Chan

John H. Chun
United States District Judge

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